

1 THE HONORABLE THOMAS S. ZILLY
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 BUNGIE, INC.,

10 Plaintiff,

11 v.

12 AIMJUNKIES.COM; PHOENIX DIGITAL
13 GROUP, LLC; DAVID SCHAEFER; JORDAN
14 GREEN; JEFFREY CONWAY AND JAMES
15 MAY,

Defendants.

No. 2:21-cv-811

**PLAINTIFF BUNGIE, INC.'S
UNOPPOSED MOTION TO SEAL**

NOTE ON MOTION CALENDAR:
March 30, 2023

16 At the request of Defendants AimJunkies.com, Phoenix Digital Group, LLC (“Phoenix
17 Digital”), David Schaefer, Jordan Green, Jeffrey Conway, and James May (collectively,
18 “Defendants”), Plaintiff Bungie, Inc. (“Bungie”), pursuant to LCR 5(g) and the Stipulated
19 Protective Order entered by the Court in this matter (Dkt. No. 60), hereby moves to file under seal
20 Exhibits E, F, and H to the Declaration of Christian W. Marcelo in Support of Bungie’s Motion
21 for Discovery Sanctions and to Compel Discovery Responses (“Marcelo Decl.”), and the
22 accompanying references to these exhibits and information in Bungie’s Motion for Discovery
23 Sanctions and to Compel Discovery Responses (the “Motion”).

24 A party may file a document under seal without prior court approval “[i]f the party files a
25 motion or stipulated motion to seal the document . . . at the same time the party files the sealed
26 document.” LCR 5(g)(2)(B). The contemporaneous motion must include a certification that the

PLAINTIFF'S MOT. TO FILE UNDER SEAL
(No. 2:21-cv-811) – 1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: +1.206.359.8000
Fax: +1.206.359.9000

1 parties met and conferred about the need to file the document under seal, the ability to minimize
 2 the material filed under seal, and the possibility of exploring alternatives to filing under seal. LCR
 3 5(g)(3)(A). Where the parties have entered a stipulated protective order, a party wishing to file
 4 confidential documents it obtained from another party in discovery may file a motion to seal but
 5 need not provide a specific statement of the applicable legal standard and the reasons for keeping
 6 a document under seal. LCR 5(g)(3)(B).

7 Here, the exhibits that Bungie intends to file under seal consist of excerpts of deposition
 8 transcripts from Defendants that were taken in the parallel JAMS arbitration proceeding between
 9 the same parties, and which were designated in their entirety as Confidential by Defendants.
 10 Bungie has an obligation to maintain the confidentiality of this information under the Stipulated
 11 Protective Order in this case and the virtually identical order in the arbitration proceeding.

12 On March 29, 2022, Bungie’s counsel notified counsel for Defendants via email of its
 13 intent to file Exhibits E, F, and H to the Marcelo Declaration in connection with its Motion,
 14 including the specific portions of the deposition testimony to be cited, and asked Defendants to
 15 confirm whether they intended to assert confidentiality over those portions of the transcript.
 16 Defendants’ counsel stated that “Given the short notice, I have not yet been able to speak with my
 17 clients regarding this and, accordingly, will need to maintain confidentiality as to these excerpts
 18 for now. The basis, at least in part, is that they reflect the confidential procedures and sources used
 19 by Phoenix Digital in conducting its business.”

20 A proposed order accompanies this motion.

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Perkins Coie LLP
 1201 Third Avenue, Suite 4900
 Seattle, Washington 98101-3099
 Phone: +1.206.359.8000
 Fax: +1.206.359.9000

1 Dated: March 30, 2023

2 By: /s/Christian W. Marcelo

3 Christian W. Marcelo, Bar No. 51193

4 William C. Rava, Bar No. 29948

5 Jacob P. Dini, Bar No. 54115

6 **Perkins Coie LLP**

7 1201 Third Avenue, Suite 4900

8 Seattle, Washington 98101-3099

9 Telephone: +1.206.359.8000

10 Facsimile: +1.206.359.9000

11 WRava@perkinscoie.com

12 CMarcelo@perkinscoie.com

13 JDini@perkinscoie.com

14 *Attorneys for Plaintiff Bungie, Inc.*

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